

**ORDINANCE IMPLEMENTING PENSION PROVISIONS OF
2012-2015 IAFF AND FOP COLLECTIVE BARGAINING AGREEMENTS**

ORDINANCE NO. 2014-3848

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING PART I, SUBPART B, ARTICLE IX, RELATED SPECIAL ACTS, OF THE MIAMI BEACH CITY CODE ENTITLED "PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS OF POLICE AND FIRE DEPARTMENTS"; IMPLEMENTING PROVISIONS OF THE 2012-2015 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND FIRE FIGHTERS OF MIAMI BEACH, (IAFF) LOCAL 1510, AND MIAMI BEACH FRATERNAL ORDER OF POLICE, WILLIAM NICHOLS LODGE NO. 8 (FOP); IMPLEMENTING RECOMMENDATIONS OF THE BUDGET ADVISORY COMMITTEE, A MEMORANDUM OF UNDERSTANDING AND OTHER CHANGES; AMENDING SECTION 63 ENTITLED "SOURCE OF MONIES FOR FUND; COMPUTATION OF LIABILITY; USE AND INVESTMENT OF FUND"; SERVICE RECORD"; AND AMENDING SECTION 66 ENTITLED "SERVICE AND DISABILITY BENEFITS GENERALLY"; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

Section 1. Effective September 30, 2013, Section 62 of Part 1, Subpart B, Article IX, Related Special Acts of the Miami Beach City Code, is amended to read:

Section 62. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Employee means any full time employee who is certified as a firefighter as a condition of employment in accordance with section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life or to protect property, and any full time employee who is certified or required to be certified as a law enforcement officer in compliance with section 943.1395, Florida Statutes, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The foregoing definition applies to employees hired on or after September 30, 2013. Notwithstanding the foregoing definition, any employee hired before September 30, 2013 whose initial employment with the City was in the unclassified service and who continuously remained a member of the unclassified service after that date shall remain a member of the Miami Beach Employees Retirement Plan for as long as employed as an unclassified employee, and shall not be eligible to participate in this System.

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Salary, for the purpose of determining member contributions under this System, means the member's base pay, longevity pay, overtime, shift differential and extra compensation allowance such as uniform allowance, before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. Notwithstanding the preceding sentence, effective September 30, 2013, Salary shall exclude overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous

duty pay (when paid), payments relating to the domestic partner tax credit reimbursement, and payments to police officer members for voluntarily participating in a physical fitness assessment program offered by the City. However, for periods prior to October 1, 2000 and solely with respect to May 1993 Members, the term "Salary" shall refer only to base pay and longevity pay, excluding any payment of overtime, shift differential or extra compensation allowance such as uniform allowance, but determined before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. For purposes of determining the amount of a member's benefit under the System, Salary shall mean the amount determined under this section as modified by the provisions of section 66 under which the benefit is being provided. Notwithstanding anything herein to the contrary, a member's Salary taken into account for any purpose under this System, including for purposes of determining the amount of a member's benefit and his contribution to this System, shall not exceed the limitation set forth in section 401(a)(17) of the Internal Revenue Code as adjusted for changes in the cost of living by the Secretary of the Treasury of the United States. However, for employees who were members before the first plan year beginning after December 31, 1995, the limitation on Salary shall not be less than the amount which was allowed to be taken into account under this article as in effect on July 1, 1993.

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Section 2. Section 63 of Part 1, Subpart B, Article IX, Related Special Acts of the Miami Beach City Code, is amended to read:

Sec. 63. Source of moneys for fund; computation of liability; use and investment of fund.

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(b) Each member of this System hired before September 30, 2013 shall contribute 10% of his Salary to the Fund. Each member of this System hired on or after September 30, 2013 shall contribute 10.5% of his Salary to the Fund. The City shall, solely for purposes of complying with section 414(h) of the Internal Revenue Code, pick up contributions required to be made by the members under this System. The contributions so picked up shall be treated as employer contributions for purposes of determining their tax treatment under the Internal Revenue Code.

(c) All computations of liability in connection with the System shall be based on tables and rates approved by the Board. The Board shall designate an actuary for the System who shall recommend such tables and rates for adoption by the Board. The actuary designated by the Board, on the basis of such tables and rates, shall recommend to the Board the amounts required to be paid into the System by the City under subsection (a) of this section. Effective September 30, 2013, During the three year period beginning October 1, 2013, and at least once every three years thereafter, there shall be an experience study of ~~each of the City's pension plans' the System's~~ actuarial assumptions performed by an actuary selected by the City. ~~The experience study should be conducted at least once every three years to compare actual experience to the assumptions.~~ The actuary selected by the City shall make recommendations for any changes in assumptions based on the results of the experience study, and ~~any deviations from these assumptions by the pension boards shall be justified to the City Commission.~~ In the event the Board of Trustees or plan actuary disagrees with the recommended assumption changes, the Board or plan actuary shall present the basis of their disagreement and justify and deviation from the recommended assumptions to the City Commission. Effective September 30, 2013, the City shall require 5, 10 and 20 year projections of required pension contributions as part of the annual actuarial valuations for each of the City's pension plans. These projections shall be based on the current actuarial assumptions for each plan. The projections shall be updated to reflect the cost of any proposed benefit enhancement before the City Commission agrees to the enhancement. The cost of these studies shall be funded separately from the annual contribution to the pension plan.

(d) There shall be a complete actuarial evaluation prepared by the actuary at least every three years, and the City shall make such adjustments in its contributions as shall be shown to be required by such actuarial evaluation. The money required to meet all the obligations of this System over and above the personal contributions from members, is a liability and obligation of the City. The expenses of the System shall not be separately budgeted so long as the method is permitted by law. The City commission shall levy annually, in the manner provided by law, upon all taxable property within the City, such millage on the assessed valuation thereof as is necessary to produce the amounts required to be contributed by the City to this System. Effective September 30, 2013, the City shall fund at least the normal cost of ~~the pension~~ the System, net of member contributions and state premium tax revenues. If the net City normal cost for any Plan year exceeds the City's annual required contribution as determined in accordance with Part VII, Chapter 112, Florida Statutes, the excess shall be held in reserve as part of the Fund assets, designated as the pension stabilization fund, and shall be used to offset the City's annual required contribution in any Plan year as determined by the City. The pension stabilization fund shall be accounted for separately and not included as assets of the Fund for plan valuation purposes, and shall be annually credited or debited with gains and losses at the same rate of return as the overall net market rate of return on Fund investments. ~~If this exceeds the amount of the actuarially determined annual required contribution, the excess should be placed in a pension stabilization fund, to be made available for future pension shortfalls.~~

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Section 3. Section 65 of Part 1, Subpart B, Article IX, Related Special Acts of the Miami Beach City Code, is amended to read:

Sec. 65. Computation of creditable service; service record.

(a) A member's Creditable Service shall include all periods of employment as an Employee for which contributions have been made to this System in accordance with subsection (b) below and section 63(b), together with all service in the uniformed services of the United States required to be included under section 82; provided, however, that only periods of service in the uniformed services of the United States for which the member makes the member contributions as provided for in section 82 shall be Creditable Service for purposes of computing the amount of the member's benefit from the System. Notwithstanding any provision to the contrary, in no event shall the same period of service be counted more than once as Creditable Service under this System, and in no event shall a member receive Creditable Service under this System for any period of service for which credit has been received under any other defined benefit retirement plan established by the City.

(b) Employees who become members of this System in order to receive credit for service rendered prior to their becoming a member shall make contributions to the Fund in the amount such member would have contributed had he been a member during the period of service for which credit is being purchased. In order to receive such credit, employees shall make payment within six months after becoming a member or within such other period as may be provided in a bargaining agreement covering the member. No Creditable Service shall be provided under this System for periods of service in another City retirement plan, nor shall any transfer of service or credit from another City retirement plan to this System be allowed.

(c) The Board shall establish the service record of all employees who may be entitled to participate in the benefits of this System, and shall keep a record thereof.

Section 4. Section 66 of Part 1, Subpart B, Article IX, Related Special Acts of the Miami Beach City Code, is amended to read:

Section 66. Service and disability benefits generally.

(a) The Board shall, upon application retire members meeting any one of the following requirements:

(1) The attainment of age 50.

(2) Permanent and total disability incurred in line of duty in the police or fire department, or in the unclassified service as provided in section 70, irrespective of the number of years of Creditable Service;.

(3) Permanent and total disability incurred other than in the line of duty, after five years of Creditable Service.

(4) The sum of the member's age and Creditable Service equals at least 70 and the member retires on or after October 1, 1998; provided, effective September 30, 2013, a member hired before July 14, 2010 must attain age 47 to be eligible for retirement under this paragraph (4); and a member hired on or after July 14, 2010 must attain age 48 to be eligible for retirement under this paragraph (4); and provided further, any member hired prior to July 14, 2010 who completes a buyback of prior Creditable Service prior to September 30, 2013 and reaches the maximum pension benefit of 85% of average monthly Salary prior to attaining age 47, the employee contribution shall cease on the date such employee reaches the 85% maximum pension benefit, and his/her final average monthly Salary will be frozen on the same date. Notwithstanding the preceding sentence, any police officer member, and effective January 16, 2014, any firefighter member hired pursuant to a consent decree may retire when the sum of the member's age and Creditable Service equals at least 70.

(5) Only for periods prior to October 1, 2000 and only in the case of a May 1993 Member, the attainment of age 55 with at least 10 years of Creditable Service.

(b) A member who attains eligibility for retirement under subsection (a) above on or before September 30, 2013 shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to:

(1) Three percent of the member's average monthly Salary for each year of the member's first 15 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; plus

(2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 15 years, being computed as to a part of a year on a pro rata basis to the nearest month.

(c) A member who does not attain eligibility for retirement under subsection (a) above on or before September 30, 2013 shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to:

(1) Three percent of the member's average monthly Salary for each year of the member's first 20 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; provided in no event shall a member's benefit multiplier for Creditable Service earned before October 1, 2013 be reduced; plus

(2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 20 years, being computed as to a part of a year on a pro rata basis to the nearest month.

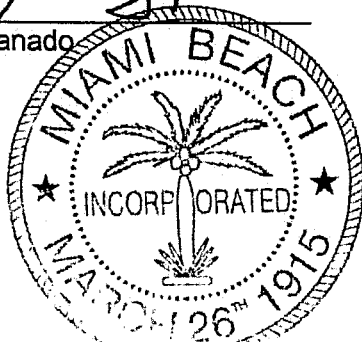
(d) For purposes of determining a member's benefit, the average monthly Salary of members who attains eligibility for retirement under subsection (a) above on or before September 30, 2015 shall be based on the average of the two highest-paid years of the member prior to the date of retirement or termination, or the average of the last two paid years of the member prior to the date of retirement or termination, whichever produces the greater benefit for members employed by the City before May 19, 1993, and shall be based on the average of the three highest paid years of the member prior to the date of retirement or termination for May 1993 Members. Effective September 30, 2015, the average monthly salary for members hired before July 14, 2010 who do not attain eligibility for retirement under subsection (a) above on or before September 30, 2015, shall be based on the average of the three highest paid years or the average of the last three (3) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. The average monthly salary for Members Members-hired on or after July 14, 2010 but prior to September 30, 2013, shall be based on the average of the three highest paid years or the average of the last three (3) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. The average monthly salary for Members hired on or after September 30, 2013, shall be based on the average of the five (5) highest paid years or the average of the last five (5) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. For purposes of such calculation, Salary shall be the Salary upon which the member's contribution to the System was computed, as provided in paragraphs (1) and (2) below:

PASSED AND DULY ADOPTED by the Mayor and City Commission of the City of Miami Beach, Florida, this 5th day of March, 2014.

Philip Levine
Mayor

ATTEST:

Rafael E. Granado
City Clerk



**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

David Rappaport
City Attorney

2/10/14
Date